

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

HARRY BERNARD KRAM, M.D.)

Case No. 17-2012-227250

**Physician's and Surgeon's)
Certificate No. G 52608)**

**Respondent)
_____)**

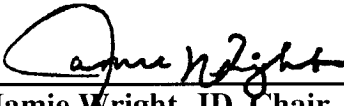
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 3, 2016.

IT IS SO ORDERED May 5, 2016.

MEDICAL BOARD OF CALIFORNIA

By: 
Jamie Wright, JD, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
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8
9 **BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:

Case No. 17-2012-227250

12 **HARRY KRAM, M.D.**
13 **3445 Pacific Coast Hwy, #230**
14 **Torrance, CA 90505**
15 **Physician's and Surgeon's Certificate No. G**
16 **52608**

OAH No.: 2015061196

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Tan N. Tran, Deputy Attorney General.

2. Respondent Harry Kram, M.D. (Respondent) is represented in this proceeding by attorney Henry R. Fenton, whose address is: 1990 S. Bundy Drive, Suite 777, Los Angeles, CA 90025.

3. On or about June 25, 1984, the Medical Board of California issued Physician's and Surgeon's Certificate No. G52608 to Harry Kram, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 17-2012-227250 and will expire on June 30, 2016, unless renewed.

JURISDICTION

4. Accusation No. 17-2012-227250 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 9, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 17-2012-227250 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation 17-2012-227250. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1. *Chlorophyll a* (Chl a)
2. *Chlorophyll b* (Chl b)
3. *Chlorophyll c* (Chl c)

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1 CULPABILITY

2 9. Respondent does not contest that at an administrative hearing, complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 17-2012-227250, and that he has thereby subjected his Physician's and Surgeon's Certificate
5 No. G52608 to disciplinary action.

6 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
7 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
8 Disciplinary Order below.

9 RESERVATION

10 11. The admissions made by Respondent herein are only for the purposes of this
11 proceeding, or any other proceedings in which the Medical Board of California or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding.

14 CONTINGENCY

15 12. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph. It shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

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1 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
2 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
3 effect as the originals.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 **A. PUBLIC REPRIMAND**

9 IT IS HEREBY ORDERED that respondent Harry Kram, M.D., Physician's and Surgeon's
10 Certificate No. G52608, shall be and is hereby Publicly Reprimanded pursuant to California
11 Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, is
12 issued in connection with respondent's care and treatment of one patient, as set forth in
13 Accusation No. 17-2012-227250, and is as follows:

14 Respondent, Harry Kram, M.D. treated patient C.M. for vascular surgery on January 30,
15 2009, including an initial evaluation and post-operative follow-up care. However, the record for
16 Dr. Kram's treatment of patient C.M. is incomplete, as it does not adequately contain
17 documentation as to whether the patient received informed consent. This has been determined to
18 constitute a recordkeeping deficiency within the meaning of Business and Professions Code
19 section 2266.

20 **B. MEDICAL RECORDKEEPING COURSE** Within 60 calendar days of the
21 effective date of this decision, respondent shall enroll in a recordkeeping course, at respondent's
22 expense, approved in advance by the Board or its designee. Failure to successfully complete the
23 course within 180 calendar days of the effective date of this Decision shall constitute
24 unprofessional conduct and grounds for further disciplinary action by the Board.

25 A medical recordkeeping course taken after the acts that gave rise to the charges in the
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the course would have
28

1 been approved by the Board or its designee had the course been taken after the effective date of
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee not later than 15 calendar days after successfully completing the course, or not later than
5 20 calendar days after the effective date of the Decision, whichever is later.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Henry R. Fenton. I understand the stipulation and the effect it will
9 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
10 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
11 Decision and Order of the Medical Board of California.

12
13 DATED: 3/30/16

14 
Harry Kram, M.D.
Respondent

15
16 I have read and fully discussed with Respondent the terms and conditions and other matters
17 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
18 content.

19 DATED: 3/30/2016

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Henry R. Fenton
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated:

4/1/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

TAN N. TRAN
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 17-2012-227250

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 17-2012-227250

12 **HARRY KRAM, M.D.**
13 **3445 Pacific Coast Hwy, #230**
14 **Torrance, CA 90505**
15 **Physician's and Surgeon's Certificate**
No. G 52608,

A C C U S A T I O N

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about June 25, 1984, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number G 52608 to HARRY KRAM, M.D. (Respondent). The Physician's
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2016, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 "(b) Gross negligence.

4 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 "(d) Incompetence.

15 "(e) The commission of any act involving dishonesty or corruption which is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 "(f) Any action or conduct which would have warranted the denial of a certificate.

18 "(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of
21 the proposed registration program described in Section 2052.5.

22 "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview scheduled by the mutual agreement of the certificate holder and the
24 board. This subdivision shall only apply to a certificate holder who is the subject of an
25 investigation by the board."

26 7. Section 2266 of the Code states:

27 "The failure of a physician and surgeon to maintain adequate and accurate records
28 relating to the provision of services to their patients constitutes unprofessional conduct."

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 8. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
4 the Code in that Respondent committed repeated negligent acts in his care and treatment of
5 patient C.M.¹ The circumstances are as follows:

6 9. Patient C.M., a 74-year-old female, was brought to Gardena Memorial Hospital
7 emergency room (ER) on January 27, 2009, by ambulance. She was diagnosed with exacerbation
8 of congestive heart failure and admitted to the intensive care unit (ICU) for further care.

9 10. Her past medical history was significant for severe coronary, peripheral,
10 cerebrovascular, pulmonary and renovascular occlusive disease. The patient also had a history of
11 previous myocardial infarction, hypertension, hyperlipidemia, and chronic obstructive pulmonary
12 disease with more than twenty years of tobacco abuse. The patient's past surgical history was
13 significant for heart bypass with porcine aortic valve replacement, carotid endarterectomy, left
14 femoral endarterectomy, renal and iliac stent placements. In the ER, it was noted that the patient
15 had a new onset of atrial fibrillation. In the ICU, on January 27, 2009, the patient complained of
16 left arm pain. Doppler and CT angiogram were performed on January 28, 2009.

17 11. Respondent saw the patient on January 28, 2009 for a vascular surgery consult and to
18 evaluate the patient's left arm acute arterial occlusion. "Thrombectomy +/- angioplasty" was
19 recommended after cardiac clearance. Surgery was scheduled and performed on January 30,
20 2009, at approximately 8:25 am. Percutaneous thrombectomy with atherectomy and angioplasty
21 and stent placement were done in multiple arteries of the left upper extremity. An Angioseal
22 closure device was used in the right femoral access site. A 6mm x 10cm Viabahn stentgraft was
23 placed into the brachial artery and a 7mm x 29mm Cordis Genesis stent was placed into the
24 subclavian artery.

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28 ¹ The patient is identified by initials for privacy protection.

1 12. Clinically, the patient's left hand was significantly worse after surgery and needed
2 reexploration. Respondent recommended anticoagulation with Heparin on January 31, 2009 and
3 possible fasciotomy. Fasciotomy of the left forearm was subsequently performed with no
4 improvement. The patient's left forearm experienced clinical deterioration over the next few
5 days.

6 13. On February 2, 2009, the patient was transferred to Long Beach Memorial Hospital
7 (Long Beach), by request of her family. The patient was unstable and required a blood
8 transfusion on arrival. The patient's left arm was non-viable, and no blood flow to the left
9 forearm or hand was documented on angiography. The patient required an amputation just below
10 the left elbow level on February 7, 2009.

11 14. After transfer to Long Beach, the patient also developed ischemic symptoms in both
12 lower extremities. An attempt at endovascular treatment was unsuccessful, and on February 10,
13 2009 she underwent open bilateral iliofemoral thromboembolectomies with patch angioplasties.
14 A mal-positioned Angioseal was found in the right common femoral artery. This operation was
15 successful and the patient had no further ischemic episodes.

16 15. Respondent's care and treatment of C.M. as set forth above includes the following
17 acts and/or omissions which constitute repeated negligent acts:

18 A. Failing to appropriately assess and document the condition of the patient's arm and
19 hand.

20 B. Failing to create an appropriate treatment plan.

21 C. Failing to adequately perform a physical exam on the patient and/or to document
22 same.

23 D. Deferring surgery until January 30, 2009 and/or failing to heparinize the patient prior
24 to surgery if there was going to be a delay.

25 E. Using athrectomy in the arm for acute arterial occlusion instead of thrombolysis.

26 F. Using the stentgraft in the brachial artery, rather than suture repair, and failure to
27 remove the embolic material in the hand.

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1 G. Delaying the transfer of the patient to Long Beach, where thrombolytic therapy was
2 available.

3 H. Failing to recognize the progressive ischemia of the patient's hand during the
4 postoperative period.

5 I. Delay in continuing heparin in the postoperative period.

6 J. Delaying fasciotomy and lack of re-exploration with palmar arch embolectomy and/or
7 thrombolysis to address distal embolization in view of a dying hand.

8 K. Failing to acknowledge the patient's dead hand, which was documented on her arrival
9 to Long Beach.

10 L. Failing to recognize a persistent, progressive limb threatening situation in the
11 postoperative period.

12 M. Failing to recognize that the patient had right lower extremity ischemia, which is a
13 known and accepted complication after intraluminal placement of the Angioseal closure device.

14 16. Respondent's acts and/or omissions as set forth in paragraphs 9 through 15 above,
15 whether proven jointly, or in any combination thereof, constitute repeated negligent acts pursuant
16 to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

17 SECOND CAUSE FOR DISCIPLINE

18 (Inadequate Records)

19 17. Respondent is subject to disciplinary action under section 2266 of the Code in that he
20 failed to maintain adequate and accurate records relating to his care and treatment of patient C.M.
21 The circumstances are as follows:

22 A. From the records, it is impossible to determine what happened since Respondent did
23 not adequately document his thought processes, and whether the patient had received informed
24 consent.

25 B. Respondent failed to adequately note the condition of the patient's hand during the
26 early postoperative period, and whether there had been improvement and then deterioration.

27 C. There is no documentation to support Respondent's suggestion that the patient's hand
28 was viable.

1 D. There is no documentation that Respondent discussed all the options and alternatives
2 available and/or whether he felt that these options and alternatives were viable.

3 PRAYER

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Medical Board of California issue a decision:

6 1. Revoking or suspending Physician's and Surgeon's Certificate number G52608,
7 issued to Harry Kram, M.D.;

8 2. Revoking, suspending or denying approval of his authority to supervise physician
9 assistants, pursuant to section 3527 of the Code;

10 3. If placed on probation, ordering him to pay the Medical Board of California the costs
11 of probation monitoring; and

12 4. Taking such other and further action as the Board deems necessary and proper.

13 DATED: December 9, 2014

14 
15 KIMBERLY KIRCHMEYER
16 Executive Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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